IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

C.W.P. No: 1127 of 2006

Date of decision: 13.12.2007

State of Himachal Pradesh **..Petitioner**

Versus

Bhikham Ram **..Respondent**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K.Ahuja, Judge.

Whether approved for reporting?[1]

For the Petitioner: **Mr. M.S.Chandel, Advocate General, with Mr. R.M.Bisht, Dy. Advocate General**

For the Respondent: Mr. Ashok Sharma, Advocate

Per Deepak Gupta, J.

This writ petition is directed against the order of the learned Tribunal whereby the petitioners have been directed to grant work charged status to respondent Bhikham Ram w.e.f.1.1.1998 with all consequential benefits. The question as to whether the daily wagers engaged by the State of H.P. should be regularized or what wages are to be paid to them was the subject matter of a large number of cases. The State of H.P. filed a

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

Scheme for Betterment (Appointment) Regularisation of Muster-Roll/Daily-Wagers in Himachal Pradesh and presented the same before the Supreme Court in case **Mool Raj Upadhyaya Vs. State of H.P. and others 1994 Supp (2) SCC 316.** The Scheme was accepted by the Supreme Court with certain modifications. Paras 1 & 2 of the scheme, as modified and accepted by the Supreme Court read as follows:-

> "(1) Daily-wage/muster-roll workers, whether skilled or unskilled, who have completed 10 years or more of continuous service with a minimum of 240 days in a calendar year on 31.12.1993, shall be appointed as work-charged employees with effect from 1.1.1994 and shall be put in the time-scale of pay applicable to the corresponding lowest grade in the Government;
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> (2) daily-wage/muster-roll workers, whether skilled or unskilled, who have not completed 10 years of continuous service with a minimum of 240 days in a calendar year on 31.12.1993, shall be appointed as work-charged employees with effect from the date they complete the said period of 10 years of service and on such appointment they shall be put in the time-scale of pay applicable to the lowest grade in the Government."

It is apparent that under para 1 of the scheme those daily waged employees who had completed 10

years or more years of continuous service with 240 days in a calendar year as on 31.12.1993 were to be appointed as work charge employees w.e.f. 1.1.1994. Para 2 dealt with those daily rated employees who had not completed 10 years of service as on 31.12.1993.

In the present case Bhikham Ram respondent as per the admitted case was initially appointed on 20.11.1977 and had completed 240 days of continuous service for a period of 10 years by 31st December, 1987. It appears that the learned Tribunal taking this into consideration directed that he be granted work charged status w.e.f. 1.1.1988. However, this goes against para 1 of the scheme approved by the Supreme Court wherein benefit was confined from 1.1.1994 only. The original application was filed by the respondent before the learned Tribunal in the year 1994 itself. The respondent is clearly covered under para 1 of the scheme and is entitled for being granted work charged status with all consequential benefits w.e.f. 1.1.1994. The order of the learned Tribunal is modified only to the extent that the respondent shall be entitled to work charge status w.e.f. 1.1.1994 in terms of the judgment of Mool Raj Upadhyaya's case supra and not w.e.f. 1.1.1998.

The writ petition is disposed of in the aforesaid terms.

(Deepak Gupta), J.

December 13, 2007(K) (V. K. Ahuja), J.